

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1566

Introduced by Senators Escutia and Alarcon

February 19, 2004

An act to amend Sections 49430, 49431, 49431.5, and 49433.7 of, and to add Section 49431.7 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1566, as amended, Escutia. Schools: food and beverage nutrition standards.

Existing law restricts the sale of certain beverages and food items at elementary, middle, or junior high schools, with certain exceptions. Existing law makes the restrictions on the sale of food items at elementary schools operative if funding is appropriated for specified nutrition purposes.

This bill would place similar restrictions on the sale of certain beverages and food items at high schools.

The bill would delete the funding contingency applicable to elementary schools.

The bill would, in addition, revise and recast provisions relating to the sale of beverages and food items at elementary, middle, or junior high schools and make other conforming changes.

Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced price meals. Existing law requires the State Department of Education to establish a pilot program in which 10 high schools, middle schools or any combination thereof, adopt specified food sale requirements.

This bill would specify that middle schools participating in that pilot program are eligible for the reimbursement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 49430 of the Education Code is~~
2 ~~amended to read:~~

3 ~~49430. As used in this article, the following terms have the~~
4 ~~following meanings:~~

5 (a) ~~“Elementary school” means a public school that maintains~~
6 ~~any grade from kindergarten to grade 6, inclusive, but no grade~~
7 ~~higher than grade 6.~~

8 (b) ~~“Middle or junior high school” means any public school~~
9 ~~that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.~~

10 (c) ~~“High school” means any public school maintaining any of~~
11 ~~grades 10 to 12, inclusive.~~

12 (d) ~~“Full meal” means any combination of food items that~~
13 ~~meet a USDA-approved meal pattern.~~

14 (e) ~~“Added sweetener” means any additive other than 100~~
15 ~~percent fruit juice that enhances the sweetness of a beverage.~~

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21 any grade from kindergarten to grade 6, inclusive, but no grade
22 higher than grade 6.

23 (b) “Middle or junior high school” means any public school
24 that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive
25 but no grade higher than grade 9.

26 (c) “High school” means any public school maintaining any of
27 grades 10 to 12, inclusive.

28 (d) “Full meal” means any combination of food items that
29 meet a USDA-approved meal pattern.

30 (e) “Added sweetener” means any additive other than 100
31 percent fruit juice that enhances the sweetness of a beverage.

32 SEC. 2. Section 49431 of the Education Code is amended to
33 read:

1 49431. (a) At each elementary school, the sale of all foods
2 and beverages on school grounds shall be approved for compliance
3 with the nutrition standards in this section by the person or persons
4 responsible for implementing these provisions as designated by
5 the school district.

6 (b) (1) At each elementary school, the only food that may be
7 sold to a pupil during breakfast and lunch periods is food that is
8 sold as a full meal. This paragraph does not prohibit the sale of
9 fruit, nonfried vegetables, legumes, or beverages as individual
10 food items during breakfast or lunch periods if they meet the
11 requirements set forth in this subdivision.

12 (2) An individual food item sold to a pupil during morning or
13 afternoon breaks at an elementary school shall meet all of the
14 following standards:

15 (A) Not more than 35 percent of its total calories shall be from
16 fat. This subparagraph does not apply to the sale of nuts or seeds.

17 (B) Not more than 10 percent of its total calories shall be from
18 saturated fat.

19 (C) Not more than 35 percent of its total weight shall be
20 composed of sugar. This subparagraph does not apply to the sale
21 of fruits or vegetables.

22 (c) Only the following beverages may be sold to a pupil at an
23 elementary school:

24 (1) Drinking water.

25 (2) 100 percent milk, including, but not limited to, chocolate
26 milk, soy milk, rice milk, and other similar dairy or nondairy milk.

27 (3) 100 percent fruit juices.

28 (4) Fruit-based drinks that are composed of no less than 50
29 percent fruit juice and have no added sweeteners.

30 (d) An elementary school may permit the sale of food items or
31 beverages that do not comply with subdivision (b) or (c) as part of
32 a school fundraising event in any of the following circumstances:

33 (1) The items are sold by pupils of the school and the sale of
34 those items takes place off of school premises.

35 (2) The items are sold by pupils of the school and the sale of
36 those items takes place at least one-half hour after the end of the
37 schoolday.

38 (e) Notwithstanding Article 3 (commencing with Section
39 33050) of Chapter 1 of Part 20, compliance with this section may
40 not be waived.

SEC. 3. Section 49431.5 of the Education Code is amended to read:

49431.5. (a) At each middle or junior high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in a middle or junior high school shall meet all of the following standards:

~~(A)–~~

(1) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.

~~(B)–~~

(2) Not more than 10 percent of its total calories shall be from saturated fat.

~~(C)–~~

(3) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.

(c) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a middle or junior high school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A middle or junior high school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of a school fundraising event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

SEC. 4. Section 49431.7 is added to the Education Code, to read:

49431.7. (a) At each high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in high school shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.

(2) Not more than 10 percent of its total calories shall be from saturated fat.

(3) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.

(c) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a high school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A high school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of a school fundraising event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

SEC. 5. Section 49433.7 of the Education Code is amended to read:

1 49433.7. The State Department of Education shall establish a
2 three-year pilot program in which a total of not less than 10 high
3 schools, middle schools, or any combination thereof, that apply are
4 selected to participate. Although the selection process shall be
5 random, the selection process shall be weighted so that the pilot
6 program contains participants that, as a group, are representative
7 of the geographic diversity of the state. The pilot program shall
8 commence in the fall of the 2002–03 school year. Participating
9 districts will be eligible to receive a grant pursuant to subdivision
10 (c) of Section 49433 and an increased reimbursement rate for free
11 and reduced price meals served at participating middle and high
12 schools as set forth in Section 49430.5.

13 _____
14 CORRECTIONS

15 Text — Page 4.

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